

**PALESTINIAN NATIONAL AUTHORITY  
MINISTRY OF JUSTICE  
DIWAN AL-FATWA WAL-TASHRI'**

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***FORMATION OF  
REGULAR COURTS  
DRAFT LAW***

**PALESTINIAN NATIONAL AUTHORITY  
MINISTRY OF JUSTICE  
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No. 29/M – 302/99

Date: November 26, 1999

**Draft Law No. ( ) for the Year 1999 for the Formation of Regular  
Courts**

The Chairman of the Palestine Liberation Organization Executive  
Committee,

The President of the Palestinian National Authority,

After reviewing the Courts Law No. 31 for the year 1940 in force in the  
Gaza Districts; and

After reviewing Law No. 26 for the year 1952 governing the Formation of  
Regular Courts in force in the West Bank Districts; and

After reviewing Law No. 45 for the year 1947 governing the jurisdiction of  
the Conciliation Courts in force in the Gaza Districts; and

After reviewing Law No. 15 for the year 1952 governing the Conciliation  
Courts in force in the West Bank Districts; and

After reviewing the Draft Law submitted by the Council of Ministers; and

Following the approval of the Legislative Council;

**We have issued the following Law:**

**CHAPTER ONE**

**General Provisions**

**Article ( 1 )**

Regular Courts and their various stages shall be established and their areas  
of jurisdiction shall be specified pursuant to a decision issued by the  
President of the National Authority, and they shall exercise the powers  
vested in them by law.

## **Article ( 2 )**

Regular Courts in Palestine shall practice their jurisdiction in all civil and penal actions on all persons unless excepted by another law. The rules governing the jurisdiction of courts shall be specified in accordance with the Civil Procedure Law and the Penal Procedure Law.

## **Article ( 3 )**

Courts shall not consider any claim or case related to acts of sovereignty.

## **Article ( 4 )**

Trials shall be conducted in public unless the court orders otherwise for considerations of morality or to safeguard public order. Pronouncement of judgment shall be in a public session under all circumstances.

## **Article ( 5 )**

The courts shall use the Arabic language and shall hear the testimony of litigants or witnesses who do not speak Arabic through a legal interpreter after taking the oath.

## **Article ( 6 )**

Control and management of the session are the responsibility of the court head.

## **Article ( 7 )**

Rulings are pronounced and implemented in the name of the Palestinian people.

## **Article ( 8 )**

Regular Courts shall consist of the following:

1. Conciliation Courts
2. Courts of First Instance
3. Major Assize Courts
4. Courts of Appeal

5. The Supreme Court, and it consists of:
  - A. The Court of Cassation
  - B. The Court of Justice

## **CHAPTER TWO**

### **Conciliation Courts**

#### **Article ( 9 )**

Within each court of first instance one or more conciliation courts shall be established and shall exercise their jurisdiction in accordance with the Civil Procedure Code and the Penal Procedure Law or any other laws or regulations.

#### **Article ( 10 )**

The conciliation court shall consist of a single judge who assumes its administrative supervision and organizes its work. In case there are several judges, the most senior shall assume these responsibilities.

#### **Article ( 11 )**

The Head of the Supreme Court may issue a decision regulating the work of the conciliation courts by dividing them into specialized departments.

#### **Article ( 12 )**

The Head of the Supreme Court shall appoint by a decision issued by him:

1. A conciliation judge or more to assume the duties of a settlement judge to settle the disputes between the parties before hearing a lawsuit in accordance with Chapter Three, Part II, of the Civil Procedure Law.
2. One conciliation judge to hear the momentary and urgent issues, and he shall be called Judge of the Urgent Issues in accordance with Chapter Two, Part IV, of the Civil Procedure Law.

## **CHAPTER THREE**

### **Courts of First Instance**

#### **Article ( 13 )**

Courts of first instance shall be established in the centers of districts as needed in accordance with the provisions of this Law.

#### **Article ( 14 )**

In civil and penal matters, the court of first instance shall consist of a chief judge and a sufficient number of judges.

#### **Article ( 15 )**

The jury shall consist of a chief and two judges. In the absence of the chief, the most senior of the jury shall become chief judge. The jury may also consist of one judge only per a decision issued by the chief judge in accordance with law.

#### **Article ( 16 )**

If the jury consists of three judges and they differ in opinion, the jury shall issue its ruling by a majority vote signed by all the members of the jury.

#### **Article ( 17 )**

The courts of first instance shall exercise their jurisdiction in accordance with the Civil Procedure Law and the Penal Procedure Law or any other laws or regulations.

#### **Article ( 18 )**

The court of first instance, in its capacity as a court of appeal, shall hold its sessions consisting of a chief and two judges and shall be specialized in the following fields:

1. Hearing the appeal of rulings issued by the courts of conciliation in accordance with the Penal Procedure Law and the Civil Procedure Law.

2. Hearing any appeals filed pursuant to any other law.

### **Article ( 19 )**

The court of first instance may hold sessions for considering penal actions outside its area of jurisdiction on the basis of a request from the Attorney General and a decision issued by the Head of the Supreme Court.

### **Article ( 20 )**

1. The head of the court of first instance shall also be head of the procedural actions in his area of jurisdiction and shall be entrusted with the implementation of the orders and decisions issued by the courts.
2. The head of procedural actions may authorize one judge or more from the judges in the court of first instance or the conciliation court in his area of jurisdiction to take over the responsibilities of the head of procedural actions.

## **CHAPTER FOUR**

### **Major Assize Courts**

#### **Article ( 21 )**

A court called the Major Assize Court shall be established in each of the cities of Gaza, Ramallah and Nablus for hearing the criminal lawsuits where sentences exceed the term of seven years. The court may hold its sessions in any other place within or outside its area of jurisdiction, if necessary, on the basis of a decision issued by the Head of the supreme court.

#### **Article ( 22 )**

The Major Assize Court shall consist of a chief and a sufficient number of judges. It shall hold its sessions with the presence of the chief and two judges. In case the chief is absent, the most senior judge shall take over.

### **Article ( 23 )**

The rulings of the Major Court of Assize shall be issued by a majority vote and shall be signed by all members of the jury. In case of capital punishment, the ruling shall be issued unanimously.

## **CHAPTER FIVE**

### **Courts of Appeal**

#### **Article ( 24 )**

Two courts of appeal shall be established in Palestine, one in Jerusalem and the other in Gaza. The Jerusalem court of appeal shall hold its sessions temporarily in the city of Ramallah.

#### **Article ( 25 )**

The court of appeal shall hold its sessions for hearing penal and civil cases appealed. It shall consist of a chief and two judges. Its rulings shall be issued by a majority vote and shall be signed by all members of the jury.

#### **Article ( 26 )**

The head of the appeal court shall issue an administrative decision regulating the work of the court and dividing it into specialized departments.

#### **Article ( 27 )**

The appeal courts shall have the jurisdiction to hear the following:

1. The appeal of the rulings and decisions issued by any of the courts of first instance and conciliation in accordance with law.
2. Any appeal filed pursuant to any other law.

## **CHAPTER SIX**

### **The Supreme Court**

#### **Article ( 28 )**

The Supreme Court shall consist of:

1. The Court of Cassation.
2. The Court of Justice.

#### **Article ( 29 )**

The permanent location of the Supreme Court shall be in the city of Jerusalem. However, it shall hold its sessions temporarily in the cities of Gaza and Ramallah. It may also hold its sessions in any other place, as needed, pursuant to a decision issued by the Head of the Supreme Court.

#### **Article ( 30 )**

The Head of the Supreme Court shall issue a decision regulating the work of the Supreme Court and dividing it into specialized departments.

#### **Article ( 31 )**

The Court of Cassation shall consist of a chief, a vice-chief or more, and a sufficient number of judges. It shall hold its sessions in the presence of the chief judge and at least four other judges. If the chief judge is absent for whatever reason, the vice-chief or the most senior judge shall preside over the session.

#### **Article ( 32 )**

The Court of Cassation shall have the jurisdiction to hear the following:

1. In its capacity as a penal court, it shall hear all appeals filed by the courts of appeal in penal lawsuits.
2. In its civil capacity, it shall review all rulings and decisions issued by the courts of appeal in civil, commercial and personal status lawsuits.
3. It shall consider any other requests and matters submitted pursuant to any other law.



### **Article ( 33 )**

Appeal procedures before the Court of Cassation shall be regulated by law.

### **Article ( 34 )**

If any department at the Supreme Court wishes to reverse a legal principle issued by previous rulings, the full members of the jury shall hear the lawsuit and take a final decision. In this case, the decision shall be taken by a majority vote.

### **Article ( 35 )**

The Supreme Court shall hold its sessions in the presence of a chief justice and at least two other judges. In the absence of the chief justice, the vice-chief or the most senior judge shall head the court. The decision shall be taken by a majority vote and shall be signed by all the jury.

### **Article ( 36 )**

The Supreme Court of Justice shall look into the following issues:

1. Requests objecting to the imprisonment of somebody or asking for issuing orders against the release of persons arrested illegally.
2. Orders issued to employees or public organizations for the purpose of performing their public duties, or asking them to perform certain duties or abstain from performing such duties.
3. Matters related to changing the reference of the lawsuit when hearing civil lawsuits in the courts of first instance or land courts.
4. Disputes related to the rights of public employees, their pension payments or those of their heirs.
5. Requests submitted by the parties concerned and appeals against administrative decisions issued by government agencies and public organizations.
6. Requests dealing with the annulment of any action issued pursuant to regulations that contradict with the constitution or law based on a complaint by the injured party.

7. Issues not considered lawsuits or trials but simply petitions or requests which are beyond the jurisdiction of any court and need to be settled in a just way.
8. Any other matters submitted pursuant to any other law.

### **Article ( 37 )**

Requests or appeals submitted to the Supreme Court of Justice by individuals or agencies mentioned in Article ( 37 ) of this Law should be based on matters related to jurisdiction, defect in form, violation of laws or regulations, a mistake in execution or interpretation, or a deviation from the proper use of authority specified in the law. The refusal or abstention of an administrative organ from taking any decision that should have been taken pursuant to the laws and regulations in force shall be considered an administrative decision.

### **Article ( 38 )**

A technical office shall be attached to the Supreme Court of Justice. It shall consist of a director, to be chosen from the judges of the Court, and a sufficient number of judges, retired judges and lawyers chosen by the Supreme Judicial Council for a specified, renewable period. The office shall be staffed by a sufficient number of employees.

### **Article ( 39 )**

The technical office shall:

1. Derive legal principles from the issued rulings, classify and promulgate them.
2. Prepare necessary research.
3. Issue a series of rulings and the legislative publications.
4. Supervise the work of libraries.
5. Any other matters assigned by the Head of the Supreme Court.

## **CHAPTER SEVEN**

### **Concluding Provisions**

#### **Article ( 40 )**

In case of a dispute between courts in the areas of jurisdiction, the Head of the Supreme Court shall have the right, based on a request submitted by one of the parties, to refer the dispute to the Court of Cassation for a final settlement if he decides so.

#### **Article ( 41 )**

The Head of the Supreme Court may, from time to time and for a temporary period not to exceed one month, second the following:

1. Any judge from the court of appeal to become a judge in the court of cassation or any other court of appeal.
2. Any judge from the court of first instance to become a judge in the court of appeal or any other court of first instance.
3. Any judge from the court of conciliation to become a judge in a court of first instance or judge in another court of conciliation.

#### **Article ( 42 )**

The Shari'ah, religious and sectarian courts shall be formed pursuant to special laws regulating their work, which specify the principles to be followed and the powers to be exercised in their areas of jurisdiction.

#### **Article ( 43 )**

The heads of courts and judicial departments are responsible for the good progress of work under their supervision. They shall conduct duties towards courts staff in accordance with the Civil Service Law.

#### **Article ( 44 )**

1. A sufficient number of staff shall be appointed in each court.
2. The duties and responsibilities of all court staff shall be defined as per a by-law issued in an administrative decision by the head of the court.

**Article ( 45 )**

Each court shall have its own seals. The head of the court shall issue instructions determining the type of seals and the ways of keeping and using them.

**Article ( 46 )**

The Supreme Judicial Council shall issue the necessary regulations for implementing this Law.

**Article ( 47 )**

The Courts Law No. ( 31 ) for the year 1940 in force in the Gaza Districts, and Law No. ( 26 ) for the year 1952 regarding the Formation of Courts, in force in the West Bank Districts, as well as any other law that violates the provision of this law, shall be annulled.

**Article ( 48 )**

All parties concerned, each within its own jurisdiction, shall implement the Provisions of this Law which shall be in force after thirty days from the date of promulgation in the Official Gazette.

Issued at the City of Gaza on -----/-----/1999.

**Yasser Arafat**  
**Chairman of the Palestine Liberation Organization Executive**  
**Committee**  
**President of the Palestinian National Authority**